Hemingway, 13 Ill. 605; *Tradesman Natl. Bank* v. *Green,* 57 Md. 602; *Sackett* v. *Palmer,* 25 Barb. (N. Y.) 179. Third, The sum is uncertain if it is to be determined by future sales or collections. *Legro* v. *Staples,* 16 Me. 252; *Fiske* v. *Witt,* 22 Pick. (Mass.) 83; *Jackson* v. *Tilgham,* 1 Miles (Pa.) 31. Fourth, An instrument payable to one and his assigns or to one alone, where that one is a real person, is not payable to order or to bearer. *Zander* v. *N. Y. Security Co.,* 81 N. Y. Supp. 1151; *Westberg* v. *Chicago L. & Co.,* 117 Wis. 589. It will thus be seen that the instrument in the principal case does not conform to the requisites of a bill of exchange as defined by the statute either as to time of payment, or the persons to whom it is payable. It is only an equitable assignment of wages that are to accrue in the future, and when they have accrued, the assignee, if notice of the assignment be given to the Coal Company, should be entitled to recover the fund. *Morton* v. *Naylor, supra.*

BILLS AND NOTES—HOLDER IN DUE COURSE—DEFENSES—INTOXICATION.—Under Negotiable Instruments Law (§ 1676-25, 1676-27) providing that a holder in due course holds the instrument free from any defect in title of prior parties, except where the title of the person negotiating the instrument is void on the ground of fraud, duress or other unlawful means, a holder in due course takes no title where the note was absolutely void in its inception because of the intoxication of the maker, destroying the rational faculties of the mind. *Green et al.* v. *Gunsten et al.,* (Wis., 1913) 142 N. W. 261.

On the other hand, it has been held that as against a bona fide holder intoxication is no defense. JOYCE, DEFENSES OF COM. PAPER, § 69; *State Bank* v. *McCoy,* 69 Pa. St. 204; *McSparron* v. *Neeley,* 91 Pa. St. 18; *Smith* v. *Williamson,* 8 Utah, 219, 30 Pac. 753. The reason for the rule announced in the principal case is that there can be no valid contract where there is no mind capable of contracting; that a person so intoxicated as to be deprived of reasoning faculties is, like an insane person, incapable of contracting, hence the note was void in its inception; and that the indorsee is charged with constructive notice of the mental incapacity of the maker of the note as in the case where insanity is pleaded. And the defense of insanity is recognized even by the courts that repudiate the defense of intoxication. See *Moore* v. *Kershey,* 90 Pa. St. 196. The difference between the two cases is pointed out in the case of *State Bank* v. *McCoy,* supra, in substance, that insanity is a permanent state of mind, not voluntarily produced, while drunkeness is a temporary state of mind, voluntarily produced; and that when men voluntarily deprive themselves of the use of reason, the law may refuse to treat them with the same tenderness that it does those unfortunate beings who are deprived of their understanding by some providential dispensation; and it may properly hold them to a different measure of responsibility for the consequence of their acts. On the question of making a distinction between the various degrees of intoxication, see *Caulkins* v. *Fry,* 35 Conn. 170, and *Miller* v. *Finley,* 26 Mich. 248, 12 Am. Rep. 306. The reasoning of the cases holding contrary to the rule of the principal case seems more in accord with justice, for it is unfair and at the same time very inconvenient to the public to hold

that the purchaser of commercial paper must ascertain at his peril whether the maker of the instrument was drunk or sober at the time of its execution.

COMMERCE—ORIGINAL PACKAGE DOCTRINE—APPLICABILITY TO FOOD AND DRUGS ACT.—The plaintiffs in error were convicted in the state court for violation of a Wisconsin statute providing for the exclusive use of specified labels upon food products of a certain kind sold or offered for sale within the state. WIS. LAWS, 1907, p. 646, ch. 557. They had conformed to an opinion given by the Secretaries of the Treasury, Agriculture, and Commerce and Labor, jointly, designating the form of labels required by the Federal Food and Drugs Act of June 30, 1906 (34 STAT. AT L. 768, ch. 3915; U. S. COMP. ST. SUPP., 1911, p. 1354). The goods in question had been removed from the original package. *Held,* that the statute was invalid as in conflict with the Food and Drugs Act. *McDermott* v. *State of Wisconsin,* (1913) 33 Sup. Ct. Rep. 431, reversing 143 Wis. 18, 126 N. W. 888, 21 Ann. Cas. 1315.

The Food and Drugs Act was passed under the commerce clause of the federal constitution, and its validity upheld on that ground. *Shawnee Milling Co.* v. *Temple,* 179 Fed. 517; *Hipolite Egg Co.* v. *U. S.,* 220 U. S. 45. Congress has the power to determine what are fit articles of interstate commerce. *Lottery Case* (*Champion* v. *Ames*), 188 U. S. 321. But a state retains all police power, and is properly exercising this power by making criminal the adulteration or misbranding of food or drugs. *Barbier* v. *Connolly,* 113 U. S. 27; *Crossman* v. *Lurman,* 192 U. S. 189. Where, in exercising the police power, the enactments of the state legislature conflict with those of Congress, the state legislation inconsistent with the latter is invalid, even though it affects the matter but incidentally. *McCullough* v. *Maryland,* 4 Wheat. 316; *Reid* v. *Colorado,* 187 U. S. 137; *Asbell* v. *Kansas,* 209 U. S. 251; *N. P. Ry. Co.* v. *Washington,* 222 U. S. 370; *So. Ry. Co.* v. *Reid,* 222 U. S. 424. The original package doctrine was first squarely applied to interstate commerce in *Leisy* v. *Hardin,* 135 U. S. 100, although its origin was in the decision of *Brown* v. *Maryland,* 12 Wheat. 419. In substance it provides that articles of interstate commerce continue to be such until they have been sold or taken from their original package. Until that time they are not subject to regulation by the state. *Brown* v. *Maryland,* supra, *Leisy* v. *Hardin,* supra; *Low* v. *Austin,* 13 Wall. 29; *Heyman* v. *So. Ry. Co.,* 203 U. S. 270. While the federal government has plenary power until such time, it would seem that the converse of that proposition, given weight by some authorities, is considerably limited, in view of the decision in the principal case. The decision, however, seems to be based upon sound public policy, and is the only position that could be taken without in a large measure defeating the purpose of the federal Food and Drugs Act. It will be interesting to note the effect of the decision upon the future action of Congress with regard to other articles of commerce.

CONTRACTS—MISREPRESENTATIONS.—Plaintiff, a loan association, was induced to purchase stock of defendant trust company by the promise of the authorized agent of the latter, that within 30 days the defendant would furnish the plaintiff with money to loan on real estate. When called upon to perform the defendant refused. Plaintiff brought suit in equity to cancel the